(3) (5)

P.R. No. 2625/06 Tripathi SINGLE BENCH
Presented by Adv.
dated 20/12/06

CF 1002

BEFORE THE HON'BLE HIGH COURT OF
CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION (C) NO. 16 /2006

WRIT PETITION UNDER ARTICLE 226/~~227~~ OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS / CERTIORARI / PROHIBITION ETC. IN FORM OF ORDER / ORDERS, WRIT / WRIT(S), DIRECTION / DIRECTION(S) ETC.

PETITIONER

1. Dr. Ajmer Singh Kushawa. Son of Shri Kewali Singh Kushawa , aged about 36 years r/o Vill. Pasta Dist: Surguja C.G.

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VERSUS

RESPONDENTS

1. State of Chhattisgarh, through – the Secretary, Department of Home Affairs, Dau Kalyan Singh Bhawan, Raipur (Chhattisgarh)

OATH COMMISSIONER
APARNA MALVIYA
CG-2073/96
Bilaspur Chhattisgarh
20/12/06

2. The Superintendent of Police, Dist Surguja (Chhattisgarh)

3. The Station Officer Police Station Shanakargarh Dist: Surguja (Chhattisgarh)

01 **PARTICULARS ABOUT THE PETITIONER**

As per cause title of the petition.

XI-HC-78

(35)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP(Cr) No. 16/07 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	1.2.2007 Shri T.K. Tiwari, Advocate for the petitioner. Shri Vinay Harit, Dy. Advocate General for the State. Heard. By this petition the petitioner has prayed for quashment of First Information Report of Annexure P-5 dated 9.5.2006 registered under Section 420 of the Indian Penal Code by respondent No.3. The grievance of the petitioner is that the Assistant Commissioner cum Project Administrator, Tribal Department, Ambikapur lodged a report making allegations against the petitioner to the then Chief Executive Officer, Janpad Panchayat Shankargarh that as per enquiry conducted by the S.D.O., Kusmi, the petitioner has misappropriated a sum of Rs.51,72,500/-, as the aforesaid amount has been paid to M/s Rainbow Dealers, Ambikapur without completion of the work, as the period of work was 2004-05 to 2005-06. Learned counsel for the petitioner submits that from perusal of the first information report it would be evident that no offence under Section 420 of the I.P.C. is made out against the petitioner, as there is no allegation of cheating or fraud. He further submits	

P.T.O.

(36)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

that the Assistant Engineer, Public Health Engineering, Sub Division Kusmi has submitted a report of Annexure P-4 and from perusal of which it would be evident that the work against which the payment is made, has already been completed. He further refers to a certificate issued by the Sarpanch, Gram Panchayat Manoharpur wherein he has certified that the bore has been drilled successfully in the year 2004-05 & 2005-06.

I have heard learned counsel for the petitioner.

Perusal of first information report reveals that there are allegations of misappropriation of fund and defalcation on the basis of which report has been lodged. The investigation is still going on and the charge sheet is yet to be filed, therefore, the defence of the petitioner cannot be considered at this stage. However, it is open to the petitioner to raise this objection before the competent criminal court after filing of charge sheet.

With the above observations, the petition stands disposed of.

Consequently, M.W.P. No.246/07 also stands disposed of.

Sd/-
Dhirendra Mishra
Judge

P.T.O.